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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-089]

Certain Steel Racks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain steel racks (steel racks) from the People's Republic of China (China) for the period of investigation (POI) January 1, 2017 through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

FOR FURTHER INFORMATION CONTACT: Eli Lovely, Aleksandras Nakutis or Robert Galantucci, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1593, (202) 482-3147 or (202) 482-2923, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on July 10, 2018.¹ On August 28, 2018, pursuant to a request from the Coalition for Fair Racks Imports (the petitioner),² Commerce postponed the preliminary determination of this investigation to November 19, 2018.³ For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁴ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are steel racks from China. For a complete description of the scope of this investigation, *see* Appendix I.

¹ *See Certain Steel Racks from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 33201 (July 10, 2018) (*Initiation Notice*).

² *See* Letter, "Certain Steel Racks from the People's Republic of China: Request to Postpone Preliminary Determination," dated August 9, 2018.

³ *See Countervailing Duty Investigation of Steel Racks from the People's Republic of China: Postponement of Preliminary Determination*, 83 FR 43848 (August 28, 2018).

⁴ *See* Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Steel Racks from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the preamble to Commerce's regulations,⁵ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).⁶ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce intends to issue its preliminary decision regarding comments concerning the scope of the antidumping duty and countervailing duty investigations in the preliminary determination of the companion antidumping duty (AD) investigation.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷ In making these findings, Commerce relied, in part, on facts available and, because it finds that certain respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁸ For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty

⁵ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁶ *See Initiation Notice*.

⁷ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁸ *See* sections 776(a) and (b) of the Act.

determination in this investigation with the final determination in the companion antidumping duty investigation of steel racks from China based on a request made by the petitioner.⁹

Consequently, the final countervailing duty determination will be issued on the same date as the final antidumping determination, which is currently scheduled to be issued no later than April 1, 2019, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned rates based entirely on facts available for Jiangsu Kingmore Storage Equipment Manufacturing Co., Ltd., Nanjing Huade Storage Equipment Manufacture Co., Ltd., Tangshan Apollo Energy Equipment Company, Ltd., and 13 companies that failed to respond to our quantity and value (Q&V) questionnaire.¹⁰ Commerce calculated individual estimated countervailable subsidy rates for Nanjing Dongsheng Shelf Manufacturing Co., Ltd. (Nanjing Dongsheng) and Xiamen Aifei Metal Manufacturing Co., Ltd. (Aifeimetal). Therefore, Commerce calculated the all-others' rate using a weighted average of the individual estimated subsidy rates calculated for Aifeimetal and Nanjing

⁹ See Letter, "Certain Steel Racks from the People's Republic of China: Request to Align Final Countervailing Duty and Antidumping Determinations," dated October 31, 2018.

¹⁰ The companies that did not respond to our Q&V questionnaire are: Designa Inc.; Dongguan Baike Electronic Co., Ltd.; Ezidone Display Corp. Ltd.; Fenghua Huige Metal Products Co., Ltd.; Formost Plastic Metal Works (Jiaxing) Co., Ltd.; Ningbo Bocheng Home Products Co., Ltd.; Ningbo Joys Imp. & Exp. Co., Ltd.; Ningbo Li Zhan Import & Export Co.; Qingdao Haineng Hardware Products Co., Ltd.; Qingdao Huatian Hand Truck Co., Ltd.; Qingdao Zeal-Line Stainless Steel Products Co., Ltd.; Seven Seas Furniture Industrial (Xiamen) Co., Ltd.; and Shijiazhuang Wells Trading & Mfg. Co., Ltd.

Dongsheng using each company's publicly-ranged values for the merchandise under consideration.¹¹

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate
Designa Inc.	150.49 percent
Dongguan Baïke Electronic Co., Ltd.	150.49 percent
Ezidone Display Corp. Ltd.	150.49 percent
Fenghua Huige Metal Products Co., Ltd.	150.49 percent
Formost Plastic Metal Works (Jiaxing) Co., Ltd.	150.49 percent
Jiangsu Kingmore Storage Equipment Manufacturing Co., Ltd.	150.49 percent
Nanjing Dongsheng Shelf Manufacturing Co., Ltd.	5.04 percent
Nanjing Huade Storage Equipment Manufacture Co., Ltd.	150.49 percent
Ningbo Bocheng Home Products Co., Ltd.	150.49 percent
Ningbo Joys Imp. & Exp. Co., Ltd.	150.49 percent
Ningbo Li Zhan Import & Export Co.	150.49 percent
Qingdao Haineng Hardware Products Co., Ltd.	150.49 percent
Qingdao Huatian Hand Truck Co., Ltd.	150.49 percent
Qingdao Zeal-Line Stainless Steel Products Co., Ltd.	150.49 percent
Seven Seas Furniture Industrial (Xiamen) Co., Ltd.	150.49 percent
Shijiazhuang Wells Trading & Mfg. Co., Ltd.	150.49 percent

¹¹ With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others' Rate Calculation Memorandum.

Tangshan Apollo Energy Equipment Company	150.49 percent
Xiamen Aifei Metal Manufacturing Co., Ltd. ¹²	10.45 percent
All-Others	8.81 percent

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case

¹² As discussed in the Preliminary Decision Memorandum, Commerce has found Xiamen Massive Joy Industry Co., Ltd. and Xiamen Aifei Health-Tech Co., Ltd. to be cross-owned with Xiamen Aifei Metal Manufacturing Co., Ltd.

briefs, may be submitted no later than five days after the deadline date for case briefs.¹³ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

¹³ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: November 19, 2018.

Gary Taverman,

Deputy Assistant Secretary

*for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

Appendix

Scope of the Investigation

The merchandise covered by this investigation is steel racks and parts thereof, assembled, to any extent, or unassembled, including but not limited to, vertical components (*e.g.*, uprights, posts, or columns), horizontal or diagonal components (*e.g.*, arms or beams), braces, frames, locking devices (*i.e.*, end plates and beam connectors), and accessories (including, but not limited to, rails, skid channels, skid rails, drum/coil beds, fork clearance bars, pallet supports, column and post protectors, end row and end aisle protectors, corner guards, row spacers, and wall ties). Subject steel racks and parts thereof are made of steel, including, but not limited to, cold and/or hot-formed steel, regardless of the type of steel used to produce the components and may, or may not, include locking tabs, slots, or bolted, clamped, or welded connections.

Steel rack components can be assembled into structures of various dimensions and configurations by welding, bolting, clipping, or with the use of devices such as clips, end plates, and beam connectors, including, but not limited to the following configurations: 1) racks with upright frames perpendicular to the aisles that are independently adjustable, with positive locking beams parallel to the aisle spanning the upright frames with braces; and 2) cantilever racks with vertical components parallel to the aisle and cantilever beams or arms connected to the vertical components perpendicular to the aisle. Steel racks may be referred to as pallet racks, storage racks, stacker racks, retail racks, pick modules, selective racks, or cantilever racks and may incorporate moving components and be referred to as pallet-flow racks, carton-flow racks, push-back racks, movable-shelf racks, drive-in racks, and drive-through racks. While steel racks may be made to ANSI MH16.1 or ANSI MH16.3 standards, all steel racks and parts thereof meeting the description set out herein are covered by the scope of this investigation, whether or not produced according to a particular standard.

The scope includes all steel racks and parts thereof meeting the description above, regardless of

- (1) dimensions, weight, strength, gauge, or load rating;
- (2) vertical components or frame type (including structural, roll-form, or other);
- (3) horizontal support or beam/brace type (including but not limited to structural, roll-form, slotted, unslotted, Z-beam, C-beam, L-beam, step beam, and cantilever beam);
- (4) number of supports;
- (5) number of levels;
- (6) surface coating, if any (including but not limited to paint, epoxy, powder coating, zinc, or other metallic coatings);
- (7) shape (including but not limited to rectangular, square, corner, and cantilever);
- (8) the method by which the vertical and horizontal supports connect (including but not limited to locking tabs or slots, bolting, clamping, and welding); and
- (9) whether or not the steel rack has moving components (including but not limited to rails, wheels, rollers, tracks, channels, carts, and conveyors).

Subject merchandise includes merchandise matching the above description that has been finished or packaged in a third country. Finishing includes, but is not limited to, coating, painting, or

assembly, including attaching the merchandise to another product, or any other finishing or assembly operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof. Packaging includes packaging the merchandise with or without another product or any other packaging operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof.

Steel racks and parts thereof are included in the scope of this investigation whether or not imported attached to, or included with, other parts or accessories such as wire decking, nuts, and bolts. If steel racks and parts thereof are imported attached to, or included with, such non-subject merchandise, only the steel racks and parts thereof are included in the scope.

The scope of this investigation does not cover: 1) decks, *i.e.*, shelving that sits on or fits into the horizontal supports to provide the horizontal storage surface of the steel racks; 2) wire shelving units, *i.e.*, shelves made from wire that incorporate both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create a finished unit; 3) pins, nuts, bolts, washers, and clips used as connecting devices; and 4) non-steel components.

Specifically excluded from the scope of this investigation are any products covered by Commerce's existing antidumping and countervailing duty orders on boltless steel shelving units prepackaged for sale from the People's Republic of China. *See Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Antidumping Duty Order*, 80 Fed. Reg. 63,741 (October 21, 2017); *Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 Fed. Reg. 63,745 (October 21, 2017). Also excluded from the scope of this investigation are bulk-packed parts or components of boltless steel shelving units that were specifically excluded from the scope of the *Boltless Steel Shelving Orders* because such bulk-packed parts or components do not contain the steel vertical supports (*i.e.*, uprights and posts) and steel horizontal supports (*i.e.*, beams, braces) packaged together for assembly into a completed boltless steel shelving unit.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheadings: 7326.90.8688, 9403.20.0080, and 9403.90.8041. Subject merchandise may also enter under subheadings 7308.90.3000, 7308.90.6000, 7308.90.9590, and 9403.20.0090. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope Comments
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 - V. Injury Test
 - VI. Application of the CVD Law to Imports from China
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 - VIII. Use of Facts Otherwise Available and Adverse Inferences
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